United Nations A/HRC/28/20

General Assembly

Distr.: General
23 January 2015

Original: English

Human Rights Council
Twenty-eighth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus

Note by the Secretary-General

Summary

In the present report, which covers the period from 1 December 2013 to 30 November 2014, the Office of the United Nations High Commissioner for Human Rights highlights the concerns voiced by international and regional human rights mechanisms at factors and difficulties impeding the implementation of international human rights standards on the whole island owing to the protracted conflict. It gives an overview of specific human rights concerns in Cyprus, including with regard to the right to life and the question of missing persons, the principle of non-discrimination, freedom of movement, property rights, freedom of religion and cultural rights, freedom of opinion and expression and the right to education. Moreover, it provides an update on activities conducted to promote the implementation of Security Council resolution 1325 (2000), in which the Council called upon all actors involved to adopt a gender perspective when negotiating and implementing peace agreements.

The Office of the High Commissioner notes some positive developments witnessed during the period under review, including progress in the identification and return of the remains of missing persons, an improved climate of interreligious communication and cooperation and progress in conservation works of cultural heritage sites on the whole island. The persisting division, however, still hinders the full enjoyment, in mutual confidence by the whole population of Cyprus, of all human rights and fundamental freedoms. The Office concludes that human rights do not have any borders and that all stakeholders are thus obliged to uphold the fundamental freedoms and human rights of all people. It reiterates the importance of addressing all human rights protection gaps and the underlying human rights issues in situations of protracted conflict.

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I. Introduction

1. The present report was prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Commission on Human Rights resolutions 4 (XXXI), 4 (XXXII) and 1987/50, and Human Rights Council decision 2/102.[1]

2. As at 30 November 2014, Cyprus remained divided, with a buffer zone maintained by the United Nations Peacekeeping Force in Cyprus (UNFICYP).[2] In its resolution 2168 (2014), the Security Council welcomed the resumption of negotiations and the joint declaration adopted by the Greek Cypriot and Turkish Cypriot leaders on 11 February 2014, and the cross-visits of the Chief Negotiators to Ankara and Athens, and expressed its support for the ongoing efforts of the leaders and negotiators to reach a comprehensive settlement as soon as possible. The Council noted, however, that the move towards a more results-oriented phase of negotiations had not yet resulted in an enduring, comprehensive and just settlement based on a bicommunal, bizonal federation with political equality, as set out in relevant Council resolutions. It therefore encouraged the parties to intensify the substantive negotiations on the unresolved core issues interdependently, stressing that the status quo was unsustainable.

3. During the period under review, from 1 December 2013 to 30 November 2014, substantive negotiations on a comprehensive settlement in Cyprus, interrupted since late March 2012, resumed. Following the appointment by the Greek Cypriot leader, Nicos Anastasiades, of a new Greek Cypriot negotiator in September 2013, the sides engaged in intensive negotiations on the text of a joint declaration to mark the re-launch of full-fledged negotiations. The joint declaration, adopted on 11 February 2014, constituted an important achievement in that it reaffirmed the basis of the talks and the parameters of a federal solution. It also enshrined the leaders' commitment to engage in structured, results-oriented negotiations. The joint declaration was welcomed by the Secretary-General in a statement made on 11 February 2014 and by the Security Council in its resolution 2168 (2014). On 27 February 2014, the Greek Cypriot and Turkish Cypriot negotiators undertook cross-visits to Ankara and Athens, respectively, the first exchange of this type in the Cyprus peace talks.

4. Following a screening phase from February to April 2014, during which positions on all chapters of the negotiations were assessed, the sides tabled concrete proposals on all issues. This "second phase" was concluded on 24 July. On 22 August, the Secretary-General appointed Espen Barth Eide of Norway as his new Special Adviser on Cyprus. During the first leaders' meeting chaired by the Special Adviser on 17 September 2014, the leaders agreed that the second phase of the negotiations had been concluded and that the sides would move to the next phase of structured negotiations. Accordingly, the

[1] For an overview of resolutions on the question of human rights in Cyprus, see A/HRC/22/18, paras. 1-4.

[2] UNFICYP was established pursuant to Security Council resolution 186 (1964) to prevent a recurrence of fighting between the Greek Cypriot and Turkish Cypriot communities on the island and bring about a return to normal conditions. Its responsibilities were expanded in 1974 following a coup d'état by elements favouring union with Greece and a subsequent military intervention by Turkey, whose troops established control over the northern part of the island. Since the de facto ceasefire in August 1974, UNFICYP has supervised the ceasefire lines, provided humanitarian assistance and maintained a buffer zone between the Turkish and the Turkish Cypriot forces in the north and the Greek Cypriot forces in the south (see also www.unficyp.org).

leaders instructed their negotiators to increase the pace of meetings with a view to bridging the gaps on unresolved core issues.

5. On 6 October 2014, the Greek Cypriot side suspended its participation in the talks following the announcement by Turkey that it would undertake a seismic survey in the Exclusive Economic Zone of Cyprus. Efforts are under way to secure the resumption of negotiations.

II. Challenges for the implementation of international human rights standards in a protracted conflict

6. Various United Nations human rights mechanisms have voiced their concern at the factors and difficulties impeding the implementation of international human rights standards on the whole island due to the protracted conflict. In this regard, United Nations treaty bodies, the special procedures and the Working Group on the Universal Periodic Review addressed their questions to and made recommendations for Cyprus, Turkey and the de facto authorities in the northern part of the island.

7. In its list of issues in relation to the fourth periodic report of Cyprus, adopted in July 2014, the Human Rights Committee asked the Government to indicate the measures taken to avoid a human rights protection gap resulting from the protracted conflict in both the northern and southern parts of the island.[3]

8. In his report submitted to the Human Rights Council at its twenty-fifth session, in March 2014, the Special Rapporteur on freedom of religion or belief noted an apparent improved climate of interreligious communication and cooperation in Cyprus that he witnessed during the ground-breaking interreligious round tables held in Nicosia in September 2013.[4] In October and November 2014, the Special Rapporteur collected input in the context of his follow-up procedure on steps taken to implement his conclusions and recommendations made to the Government of the Republic of Cyprus, the de facto authorities in the northern part of the island and other stakeholders following his mission in 2012.[5]

9. The two summaries prepared by OHCHR for the second universal periodic review of Cyprus, which included summaries of stakeholders' submissions, both contained chapters on human rights issues in the northern part of the island.[6] During the meeting of the Working Group on the Universal Periodic Review on 4 February 2014, Portugal recommended that the Government of Cyprus further develop projects concerning relations between different religious and ethnic communities in line with relevant recommendations of the Special Rapporteur.[7] The Government accepted the recommendation in June 2014, stating that Cyprus fully supported the work of the Special Rapporteur and ongoing interreligious dialogue in Cyprus.[8]

10. Declarations and reservations to international human rights treaties may also negatively affect the protection of all persons living in a territory marked by a protracted conflict. For example, upon ratification of the International Convention on the Elimination

[3] CCPR/C/CYP/Q/4, para. 2.

[4] A/HRC/25/58, para. 44.

[5] A/HRC/22/51/Add.1, paras. 74-94.

[6] A/HRC/WG.6/18/CYP/2, paras. 71 – 74; A/HRC/WG.6/18/CYP/3, paras. 66 – 68.

[7] A/HRC/26/14, para. 114.73.

[8] A/HRC/26/14/Add.1, paras. 53 – 54.

of All Forms of Racial Discrimination, Turkey declared that it would implement the provisions of the Convention "only to the States parties with which it has diplomatic relations". It added that it ratified the Convention exclusively "with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied." Furthermore, it made the reservation that it did not consider itself bound by article 22 of the Convention. "The explicit consent of the Republic of Turkey is necessary in each individual case before any dispute to which the Republic of Turkey is party concerning the interpretation or application of this Convention may be referred to the International Court of Justice."

11. In its combined fourth to sixth periodic reports to the Committee on the Elimination of Racial Discrimination, received on 10 February 2014, the Government of Turkey expressed the view that its declarations and reservation were permissible under international law and compatible with the object and purpose of the Convention.[9] This was in reference to the concluding observations of the Committee made at its seventy-fourth session, when it had noted that the reservation to article 22 and the two declarations on the implementation and the territorial applicability of the Convention made by Turkey upon ratification could affect the full implementation of the Convention, and encouraged Turkey to consider withdrawing its reservation and declarations, including removal of the territorial limitation to the application of the Convention.[10] With regard to similarly worded declarations made by Turkey at the time of ratification of the International Covenant on Civil and Political Rights, the Human Rights Committee expressed concern in its concluding observations adopted at its 106th session, and stressed that Turkey should ensure that all persons under its jurisdiction and effective control were afforded the full enjoyment of the rights enshrined in the Covenant.[11] As emphasized by the Human Rights Committee in its general comment No. 31, "a State party must respect and ensure the rights laid down [in international human rights treaties] to anyone within the power or effective control of that State party, even if not situated within the territory of the State party."[12]

III. Specific human rights concerns

12. The persisting division of Cyprus continues to have consequences on human rights throughout the whole island, including (a) the right to life and the question of missing persons; (b) the principle of non-discrimination; (c) freedom of movement; (d) property rights; (e) freedom of religion and cultural rights; (f) freedom of opinion and expression; and (g) the right to education. In addition, it is important that a gender perspective be adopted when negotiating and implementing peace agreements (see paras. 47 – 51 below).

A. Right to life and the question of missing persons

13. According to article 3 of the Universal Declaration of Human Rights, everyone has the right to life, liberty and security of person. Furthermore, article 1 of the Declaration on the Protection of All Persons from Enforced Disappearance provides that any act of enforced disappearance is an offence to human dignity, placing the persons subjected thereto outside the protection of the law and inflicting severe suffering on them and their

[9] CERD/C/TUR/4-6, para. 4.
[10] CERD/C/TUR/CO/3, para. 8.
[11] CCPR/C/TUR/CO/1, para. 5.
[12] CCPR/C/21/Rev.1/Add.13, para. 10. See also A/HRC/22/18, para. 10, and A/HRC/25/21, para. 11.

families; any act of enforced disappearance also violates or constitutes a grave threat to the right to life.

14. As a result of the inter-communal fighting in 1963 and 1964, and of the events of July 1974 and afterwards, a total of 1,508 Greek Cypriots and 493 Turkish Cypriots have been officially reported as missing by both communities to the Committee on Missing Persons in Cyprus. During the period under review, the Committee continued its bicommunal project on the exhumation, identification and return of the remains of missing persons. As at 30 November 2014, the remains of 1,105 individuals had been exhumed on both sides of the buffer zone by the Committee's bicommunal teams of archaeologists; of these, the remains of 636 missing individuals had been identified and returned to their respective families, including 159 in 2014, the highest annual number ever. At the beginning of the year, the Committee made a major recovery with the exhumation of the remains of 35 persons in a quarry near Limassol.

15. In its resolution 2168 (2014), the Security Council welcomed all efforts to accommodate the exhumation requirements of the Committee on Missing Persons in Cyprus, and called upon all parties to provide full access to all areas expeditiously, given the need to intensify the Committee's work. In February and March 2014, the Committee excavated a military site in the north of Nicosia. In September 2014, authorization to excavate a second military area was given by the Turkish Forces. As the area had been declared a mine field by Turkish Cypriot authorities, a mine survey was conducted in October 2014, during which no mines were found. Excavations were ongoing at the end of the period under review.[13]

16. With regard to Greek Cypriot victims, the European Court of Human Rights delivered its judgement in the inter-State case of *Cyprus* v. *Turkey* (application No. 25781/94) (just satisfaction) on 12 May 2014. The Court held, by 16 votes to one, that the passage of time since the delivery of the principal judgement of 10 May 2001 had not rendered the just satisfaction claims of the Government of Cyprus inadmissible. With regard to the question of missing persons, it held, by 15 votes to two, that the Government of Turkey was to pay the Government of Cyprus, within three months, 30 million euros for non-pecuniary damage suffered by the relatives of the missing persons, and that this amount should be distributed to the individual victims, under the supervision of the Committee of Ministers of the Council of Europe (which supervises the execution of judgements of the European Court of Human Rights).

17. In reaction, the spokesman of the Ministry of Foreign Affairs of Turkey observed, on 12 May 2014, that the judgement went "against the realities of Cyprus", was unfair, contained "errors and inconsistencies", was "deprived of a legal basis" and lacked "the capacity of being implemented under the conditions in which the Cyprus question continues to be unsettled."

18. The Committee of Ministers instructed the Secretariat of the Council of Europe to present a general stocktaking of the different violations established by the Court, as well as an analysis of the impact of the judgement of 12 May 2014 on just satisfaction, in good time for examination by the Committee at its 1214th meeting.[14]

[13] Information received from the Secretariat of the Committee on Missing Persons in Cyprus.

[14] Council of Europe Committee of Ministers, decisions adopted at the 1201st meeting on 5 June 2014 (CM/Del/OJ/DH(2014)1201/19) on the case of *Cyprus v. Turkey*.

19. On 25 September 2014, the Committee of Ministers deplored the fact that, despite an interim resolution adopted on the case of *Varnava and Others* v. *Turkey*,[15] in which the Court found there had been a violation of the right to life and established the need for an effective investigation, the Turkish authorities had not complied with their obligation to pay the amounts awarded by the Court (see also para. 35 below).[16]

20. With regard to Turkish Cypriot victims, on 11 March 2014, in *Gürtekin and Others* v. *Cyprus*, the Court declared inadmissible three applications of relatives of men who had disappeared during inter-communal conflicts in 1963-1964, and whose bodies had been found during the exhumation programme of the Committee on Missing Persons. Although the applicants argued that the Government's investigation was ineffective, the Court did not find an infringement of the minimum standard required under article 2 of the Convention. The Court acknowledged the applicant's frustration that potential suspects had been questioned, and that apparently no further steps were going to be taken, but stressed that "article 2 cannot be interpreted so as to impose a requirement on the authorities to launch a prosecution irrespective of the evidence which is available."[17] The applicants also argued that the decision of holding the evidence insufficient to justify a prosecution should have been submitted for decision by a court; the judges of the European Court of Human Rights stated, however, that it was not for them "to micro-manage the functioning of, and procedures applied in, criminal investigative and justice systems in Contracting States which may well vary in their approach and policies."[18]

21. The approach taken by the European Court of Human Rights in *Gürtekin* contrasts with the concluding observations of the Committee against Torture on the fourth periodic report of Cyprus, adopted on 21 May 2014. While welcoming the fact that the Attorney General had opened some criminal investigations as a result of the identification of remains by the Committee on Missing Persons, the Committee against Torture noted that some relatives of missing persons had not been given the opportunity to challenge the acts or omissions of the investigating authorities in court.[19] The Committee against Torture recommended that Cyprus redouble its efforts to guarantee the relatives of missing persons identified by the Committee on Missing Persons receive appropriate redress, including the means for psychological rehabilitation, compensation and satisfaction, and for the implementation of the right to truth. In its general comment No. 3, the Committee against Torture emphasized that a State's failure to investigate, criminally prosecute or allow civil proceedings related to allegations of acts of torture in a prompt manner may constitute a de facto denial of redress and thus constitute a violation of its obligations under article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

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[15] Interim Resolution CM/ResDH(2013)201, adopted in 2013 on the case of *Varnava*. See European Court of Human Rights, *Varnava and Others* v. *Turkey* (applications Nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90), Grand Chamber judgement of 18 September 2009.

[16] Council of Europe Committee of Ministers, interim resolution adopted at the 1208th meeting on 25 September 2014 (CM/ResDH(2014)185) on the cases of *Varnava and Others* v. *Turkey* and *Xenides-Aristis* group.

[17] European Court of Human Rights, *Gürtekin and Others* v. *Cyprus* (applications nos. 60441/13, 68206/13 and 68667/13), decision of 11 March 2014, para. 27.

[18] Ibid., para. 28.

[19] CAT/C/CYP/CO/4, para. 21. See also the submission to the Committee against Torture by the Association of Martyr's Families and War Veterans of 1 April 2014 (available from http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CYP/INT_CAT_CSS_CYP_16954_E.pdf).

Punishment.[20] The Committee also recalled that judicial remedies must always be available to victims, as should all evidence concerning acts of torture or ill-treatment upon the request of victims, their legal counsel or a judge.[21] It noted that the mandate of the bicommunal Committee on Missing Persons was limited to looking into cases of Cypriots reported missing, without attempting "to attribute responsibility for the deaths of any missing persons or make findings as to the cause of such deaths",[22] and that the Committee on Missing Persons was also not empowered to grant redress to the relatives of the missing persons.

22. In August and September 2014, the European Court of Human Rights handed down decisions of inadmissibility in three cases regarding Turkish Cypriots who had disappeared during the events in 1963-64 and 1974. The cases, which had all been lodged by relatives who complained about the ineffectiveness of the investigations by the government authorities, were rejected as the Court considered the complaints to be premature, given that investigations were under way.[23]

B. Non-discrimination

23. According to article 7 of the Universal Declaration of Human Rights, all are equal before the law and are entitled without any discrimination to equal protection of the law.[24] Furthermore, all are entitled to equal protection against any discrimination in violation of the Declaration and against any incitement to such discrimination.

24. As at March 2014, there were as many as 212,400 internally displaced persons living in the part of the island controlled by the Government of Cyprus, including children born in displacement.[25] When compared with previous years, the number of internally displaced persons remained more or less unchanged. In July 2014, the Human Rights Committee asked the Government of Cyprus to indicate the measures taken to ensure that children of women with internally displaced status are given the same status and benefits as children of men with internally displaced status, including with regard to voting rights, social benefits and housing assistance.[26] Part of the relevant legislation was amended in December 2013, resulting in the recognition of displaced person status for the children of female displaced persons; however, the amendment applies only to certain housing schemes and benefits and does not give access to the same voting rights awarded to children of male displaced

[20] CAT/C/CYP/CO/4, para. 21 and CAT/C/GC/3, para. 17.

[21] CAT/C/GC/3, para. 30.

[22] See CAT/C/CYP/CO/4, para. 21 and the Terms of Reference of the Committee on Missing Persons in Cyprus (available from www.cmp-cyprus.org/about-the-cmp/terms-of-reference-and-mandate/), para. 11.

[23] European Court of Human Rights, *Gencer and Cebic* v. *Cyprus and Mülazim and Others* v. *Cyprus* (applications nos. 28194/11 and 6037/13), decision of 26 August 2014; *Ahmet Asir and Others* v. *Cyprus* (application no. 10841/12), decision of 23 September 2014; and *Davut Cakicisoy and Others* v. *Cyprus* (application no. 6523/12), decision of 23 September 2014.

[24] See also International Covenant on Civil and Political Rights, art. 26.

[25] Internal Displacement Monitoring Centre, Norwegian Refugee Council, *Global Overview 2014 – People internally displaced by conflict and violence*, Geneva, May 2014 (available from www.internal-displacement.org/assets/publications/2014/201405-global-overview-2014-en.pdf), p. 48.

[26] CCPR/C/CYP/Q/4, para. 6. See also A/HRC/25/21, para. 21, and CEDAW/C/CYP/CO/6-7, paras. 33-34.

persons to participate in elections for Greek Cypriot candidates at the village/district/municipality level in the north of the island.

25. During the period under review, UNFICYP continued to address the living conditions and well-being of Greek Cypriots and Maronites residing in the north, and by Turkish Cypriots residing in the south, including through home visits and liaison with local authorities to ensure access to health and welfare support. In its report covering developments from 16 December to 20 June 2014, UNFICYP noted that, despite the concerns repeatedly voiced about the deteriorating health of elderly Greek Cypriots and Maronites in the north, the requests for Greek-speaking doctors to treat these patients were yet to be addressed.[27] However, UNFICYP noted improvements late in the period under review with two health-care workers providing care to Greek Cypriots in the north.

26. With regard to discrimination of Greek Cypriot residents of the Karpas peninsula, the European Court of Human Rights held on 12 May 2014, by 15 votes to two, that the Government of Turkey was to pay the Government of Cyprus, within three months, 60 million euros in respect of non-pecuniary damage suffered by the enclaved Greek Cypriot residents of the Karpas peninsula, and that this amount should be distributed by the Government of Cyprus to the individual victims under the supervision of the Committee of Ministers within 18 months from the date of that payment or within any other period considered appropriate by the Committee of Ministers. The Court emphasized that "there is no doubt about the protracted feelings of helplessness, distress and anxiety of the Karpas residents whose rights under Articles 3, 8, 9, 10 and 13 of the [European] Convention and of Article 2 of Protocol No. 1 have been violated as found in the principal judgment" (See also para. 16 above).[28]

27. With regard to Turkish Cypriots residing in the south, during the meeting of the Working Group on the Universal Periodic Review of Cyprus on 4 February 2014, measures were suggested to enable Turkish Cypriots to participate effectively in cultural, social and economic life and public affairs. Concern was expressed about reports of racially motivated verbal abuse, as well as attacks against, inter alia, Turkish Cypriots.[29] In July 2014, the Human Rights Committee asked the Government of Cyprus to indicate measures taken to prevent and combat discrimination against Turkish Cypriots, to investigate all allegations of racially motivated verbal abuse and physical attacks – including the setting on fire of the Koprulu Haci Ibrahim Aga Mosque in Limassol – and to prosecute and punish, as appropriate, those responsible and to provide reparation to victims.[30]

28. The Human Rights Committee also asked the Government of Cyprus to provide information on the legislative and policy measures adopted to ensure the right of Turkish Cypriots to vote and be elected in municipal, national, European and presidential elections. In this context, the Committee also asked for specific information on the allegations that a significant number of Turkish Cypriots were unable to vote in the European Parliament elections held on 25 May 2014 because their correct residential address had not been entered in the government database.[31]

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[27] See S/2014/461, para. 15. See also A/HRC/25/21, para. 23.

[28] European Court of Human Rights, *Cyprus* v. *Turkey* (application No. 25781/94), judgement (just satisfaction) of 12 May 2014, para. 57.

[29] A/HRC/26/14, paras. 55 and 58.

[30] CCPR/C/CYP/Q/4, para. 4.

[31] Ibid., para. 26.

C. Freedom of movement

29. According to article 13 of the Universal Declaration of Human Rights, everyone has the right to freedom of movement and residence within the borders of each State, as well as the right to leave any country, including his own, and to return to his country.[32]

30. In Cyprus, however, crossings between the northern and the southern parts of the island are still possible only through (currently seven) official crossing points, a situation that obviously limits the freedom of movement. Between 1 December 2013 and 31 October 2014, UNFICYP reported more than 1,370,000 official crossings through the buffer zone. The Committee on Crossings, which was tasked by the Greek Cypriot and the Turkish Cypriot leaders to reach an agreement on new crossing points, did not meet during the period under review; despite the engagement of UNFICYP with both sides, their positions on the location of any new crossing points remained irreconcilable. In this regard, in July 2014, the Human Rights Committee asked for information on steps taken by the Government of Cyprus to reach an agreement with Turkish Cypriot leaders on new crossing points, and to provide information about the meetings of the Committee on Crossings since December 2010.[33]

31. In its concluding observations on Cyprus, the Committee against Torture was concerned by information about obstacles that impeded Turkish Cypriot prisoners detained in the southern part of the island receiving visits from family and friends.[34] Furthermore, in July 2014, the Human Rights Committee asked the Government of Cyprus for information about restrictions on crossing the Green Line that have been imposed on settlers from Turkey and their descendants, who were born in the northern part of the island, which are de facto hindrances to their undertaking pilgrimages and visiting Turkish Cypriot prisoners held in the southern part of the island.[35]

32. In its tenth report on the implementation of the Green Line Regulation (EC) No. 866/2004, the European Commission noted an increase in the number of both Greek Cypriots and Turkish Cypriots crossing the Green Line in 2013 when compared with previous years. The Commission stated that the vast majority of the crossings had taken place smoothly, with fewer incidents reported than in 2012, but that they remained a source of concern to the Turkish Cypriot community.[36] Furthermore, with UNFICYP support, important steps were taken to facilitate the practice of religious worship, and religious leaders benefited from easier crossing possibilities in both directions.

D. Property rights

33. According to article 17 of the Universal Declaration of Human Rights, everyone has the right to own property alone as well as in association with others, and no one is to be arbitrarily deprived of his property.

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[32] See also International Covenant on Civil and Political Rights, art. 12.

[33] CCPR/C/CYP/Q/4, para. 18.

[34] CAT/C/CYP/CO/4, para. 15. See also the submission dated 10 April 2014 by the Turkish Cypriot Human Rights Foundation to the Committee against Torture (available from http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/CYP/INT_CAT_CSS_CYP_17013_E.pdf).

[35] CCPR/C/CYP/Q/4, para. 19.

[36] Report from the Commission to the Council, COM(2014) 280 final, pp. 2-4.

34. With regard to property claims in the northern part of the island, as at 30 November 2014, a total of 6,045 applications had been lodged with the Immovable Property Commission (www.tamk.gov.ct.tr) since its establishment, of which 589 were concluded through friendly settlements and 13 through formal hearings. The Commission has paid a total of £182,740,348 to the applicants as compensation. Moreover, the Commission ruled for exchange and compensation in two cases, for restitution in one case, and for restitution and compensation in five cases. In one case, it delivered a decision for restitution after the settlement of the Cyprus issue, and in another case it ruled for partial restitution.

35. With regard to payment of just satisfaction in property cases, on 25 September 2014, the Committee of Ministers of the Council of Europe deplored the fact that, despite interim resolutions adopted with regard to the *Xenides-Arestis* case,[37] the Turkish authorities had not complied with their obligation to pay amounts awarded in that case, or the 32 other cases in the *Xenides-Arestis* group, on the grounds that the payment could not be dissociated from the measures of substance. The Committee recalled that it had stressed, in two letters addressed to its Turkish counterpart (sent respectively in October 2009, in the case of *Xenides-Arestis*, and in April 2014, for all cases), that the obligation to comply with the judgements of the European Court of Human Rights was unconditional. The Committee adopted an interim resolution in which it declared that the continual refusal by Turkey to pay was in flagrant conflict with its international obligations, and exhorted it to review its position and to pay the just satisfaction and interest without further delay.[38]

36. In its judgement of 12 May 2014 on *Cyprus* v. *Turkey*, the European Court of Human Rights pronounced itself on the application submitted by the Government of Cyprus for a "declaratory judgement" regarding the property rights of displaced persons. The Court recalled that it had found a continuing violation of article 1 of Protocol 1 to the European Convention on Human Rights, as Greek Cypriot owners of property in northern Cyprus were being denied access to and control, use and enjoyment of their property, as well as any compensation for interference with their property rights. It also found that Turkey had not yet complied with the holding, and that any possible permission of, participation, acquiescence or otherwise complicity in any unlawful sale or exploitation of Greek Cypriot homes and property in the northern part of Cyprus could not be consistent with compliance.[39]

E. Freedom of religion and cultural rights

37. According to article 18 of the Universal Declaration of Human Rights, everyone has the right to freedom of thought, conscience and religion, which includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.[40]

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[37] Interim resolutions CM/ResDH(2008)99 and CM/ResDH(2010)33, adopted respectively in 2008 and 2010 in the case of *Xenides-Arestis* v. *Turkey* (application no. 46347/99), judgements of 22 December 2005 and of 7 December 2006.

[38] Council of Europe Committee of Ministers' Deputies, interim resolution adopted at the 1208th meeting on 25 September 2014 (CM/ResDH(2014) 185) on the cases of *Varnava and Others* v. *Turkey* and *Xenides-Aristis* group. See also Council of Europe Committee of Ministers' Deputies, decisions adopted at the 1201st meeting on 5 June 2014 (CM/Del/OJ/DH(2014)1201/20).

[39] *Cyprus* v. *Turkey* (see footnote 28), para. 63.

[40] See also International Covenant on Civil and Political Rights, art. 18, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55).

Furthermore, according to article 27, everyone has the right freely to participate in the cultural life of the community, to enjoy the arts as well as to share in scientific advancement and its benefits.[41]

38. While many of the more than 500 churches and Christian monuments in the north and the 100 mosques in the south remain out of reach for many worshippers, some progress was made during the period under review, when more Greek Cypriots were able to worship in previously inaccessible sites than ever before. Whereas no new sites were opened for worship in the previous period under review, between 1 December 2013 and 30 November 2014 the Turkish Cypriot authorities approved visits to at least 11 new sites in the north: Ayios Georgios Xorinos in Famagusta; Panagia Theotokou in Trachoni; Ayios Charalambos in Kontea; Church of Saint George in Kyrenia; Church of Ayios Georgios in Exo Metochi; the Armenian Church of the Virgin Mary in Nicosia; the Maronite Church of Ayios Antonis; Ayios Ioannis Prodromos in Gypsou; Panagia Evangelistria in Gerolakkos; the Church of Ayios Georgios in Vatili; and Archangel Michael in Koma tou Yialou. With the agreement of the religious leaders, UNFICYP facilitated arrangements for the crossing of 914 pilgrims on 29 July 2014, and for 955 pilgrims on 22 November 2014, to Hala Sultan Tekke Mosque in the south. On 30 November 2014, Saint Andrews Day, approximately 1,000 pilgrims travelled to the north to pray at Apostolos Andreas monastery.

39. Religious leaders, including the Greek Orthodox Archbishop and the Mufti of Cyprus, with the support of the Office of the Religious Track of the Cyprus Peace Process under the auspices of the Embassy of Sweden, intensified efforts during the period under review. On 26 February 2014, the Greek Orthodox Archbishop, the Mufti, the Maronite Archbishop, the Armenian Archbishop and the Patriarchal Latin Vicar in Cyprus issued a joint statement in which they welcomed the political leaders' expressed determination to resume negotiations in a results-oriented manner, and stressed that religion was still a victim of the protracted conflict.[42] In March 2014, the Greek Orthodox Archbishop, on the invitation of the Mufti, officially crossed to the north for the first time ever to participate in a joint interreligious press conference hosted by the Office of the Religious Track. On 13 March 2014, in Geneva, the Special Rapporteur on freedom of religion or belief participated in a side event of the twenty-fifth session of the Human Rights Council on the theme "Fostering interreligious communication" together with Christian and Muslim leaders from Cyprus, which was hailed as a historic moment by several speakers. The Special Rapporteur emphasized on that occasion that interreligious dialogue was certainly not a luxury, and that the current moves and practical results in Cyprus were quite remarkable. In June 2014, the Greek Orthodox Archbishop welcomed the Mufti in his first-ever visit to all mosques in Nicosia, during which the Mosque of Tahtakale was opened for prayer for the first time since 1963. In October 2014, he hosted the Mufti in Paphos for a two-day visit, during which Turkish Cypriots came to pray at the Mosque of Agia Sophia, open for the first time since 1974.

40. Between 1 December 2013 and 30 November 2014, UNFICYP facilitated 67 religious and commemorative events involving more than 24,000 individuals, which either were held in or required crossing of the buffer zone. During the period under review, however, the Turkish Cypriot authorities did not approve several requests to hold religious services in the northern part of the island, for example at the Greek Orthodox Churches of Saint. George of Xalona in Kato Zodia, Saint George in Vathylakas, Saint George in

[41] See also International Covenant on Economic, Social and Cultural Rights, art. 15.

[42] See the Joint Statement on the Resumption of Peace Talks, 26 February 2014 (available from www.swedenabroad.com/ImageVaultFiles/id_18049/cf_52/Joint_communique.PDF).

Tympou, Galaktotrofousa in Palekythro, Saint Marina in Tympou, Prophet Elias in Tympou, Saint Antipas in Pyroi, Agia Paraskevi in Ayios Theodoros, Agios Mandilios in Kalo Chorio Kapouti, Virgin Mary in Trikomo and Saint Demetrios in Kaimakli. In addition, the religious service at the reopened Maronite chapel of Saint Antonis in Kythrea was interrupted on 31 May 2014. A request for a service at the Panayia Pergaminiotissa Church in Akanthou on 5 September 2014 was cancelled despite having been initially approved.

41. The bicommunal Technical Committee on Cultural Heritage, in partnership with the United Nations Development Programme (UNDP), pursued its surveys, designs, emergency measures and conservation works of cultural heritage sites on the whole island. Surveys, investigations and conservation project designs are being completed for the Agios Panteleimonas Monastery in Myrtou/Mirti/Çamlıbel, the Walls between Othello and Arsenal, the Ravelin/Land Gate and the Martinengo Bastion. Conservation designs for the Watermill/Aqueduct in Chrysochou/Hirsofu were completed. On 11 December 2013, the completion of the first conservation project was marked by a ceremony at the Church of Panagia in Trachoni/Trahoni/Demirhan. In June 2014, the emergency measures at the Panagia Melandrina Church in Kalograia/Kalogreya/Bahçeli were completed. On 1 July 2014, the contract for phase 1 of the restoration project for the Apostolos Andreas Monastery was signed between the UNDP Partnership for the Future and a joint venture comprising Greek Cypriot and Turkish Cypriot contractors. Site preparations were completed and works have been progressing. Completion of the conservation works at the Agios Nicolaos Church in Syrianochori/Siryanahoro/Yayla was marked by an event held on 15 October 2014. Conservation works at the Agios Afksentios Church in Komi/Komi Kebir/Büyükkonuk are ongoing. Structural consolidation works at the Othello Tower in Famagusta are ongoing and emergency measures for the mosques in Evretou/Evretu were completed in November 2014. On 26 November 2014, emergency measures began at the Mosque of Cherkezoi/Çerkez. Additional work is being carried out at the Profitis Elias Church in Fyllia/Filya/Serhatkoy, hamam in Paphos and the mosque in Deneia/Denya.

F. Freedom of opinion and expression

42. According to article 19 of the Universal Declaration of Human Rights, everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

43. In July 2014, the Human Rights Committee asked the Government of Cyprus to provide information on the amendments to the Law on the Procedure for the Standardization of Geographical Names of the Republic of Cyprus, and to state how the amendments comply with article 19, paragraph 3 of the International Covenant on Civil and Political Rights.[43]

44. The Law on the Procedure for the Standardization of Geographical Names of the Republic of Cyprus was amended in July 2013, criminalizing the alteration of names of regions, cities and villages. According to article 6, paragraph 1 of the law, any person who publishes, imports, circulates, offers, distributes or sells in the Republic of Cyprus maps, books or other documents, conventionally or digitally printed, in which geographical names and toponyms of areas of the Republic are printed differently from those designated in accordance with the procedures provided for in the law or of those in the dictionary of toponyms commits an offence and, if convicted, is subject to imprisonment not exceeding

[43] CCPR/C/CYP/Q/4, para. 25.

three years or a fine not exceeding €50,000, or both penalties, and all related documents are liable to seizure and destruction.

G. Right to education

45. According to article 26 of the Universal Declaration of Human Rights, everyone has the right to education.[44] Education should be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms; it should promote understanding, tolerance and friendship among all nations, racial or religious groups, and it should further the activities of the United Nations for the maintenance of peace. Furthermore, parents have a prior right to choose the kind of education that is given to their children.

46. Universities in the northern part of the island are not recognized by the Republic of Cyprus, and Turkish Cypriot students still face limited access to European Union exchange and educational programmes. A scholarship scheme for the Turkish Cypriot community was set up by the European Commission under European Union Council Regulation (EC) No. 389/2006 in order to compensate for this lack of mobility. The scheme allows Turkish Cypriot students and professionals to spend up to one academic year abroad at a university or other host institution in the European Union. The purpose is both to ensure academic attainment and to bring Turkish Cypriots closer to the culture and values of the European Union. In the 2012-13 academic year 2012/13, 28 students and teachers were granted scholarships to participate in the scheme. In the academic year 2013/14, 181 participants were granted scholarships, including undergraduate and graduate students, researchers and professionals, and Turkish Cypriots were, for the first time ever, offered the option of studying at a university in the southern part of the island through the scheme. According to the Task Force for the Turkish Cypriot Community of the Directorate-General for Enlargement of the European Commission, the Directorate-General also signed grant contracts with 10 Turkish Cypriot schools in 2013 and 2014 to benefit from modern teaching and management methods and to promote collaboration with Greek Cypriot schools.

47. In the light of the fundamental human right to education, the Government of Cyprus expressed deep concern in February 2014 that the replacement of a nursery teacher at Rizokarpaso Nursery School in the northern part of the island had been rejected by the Turkish Cypriot side. While an alternative in this case was later proposed and approved, the appointments of seven teachers for the academic year 2014/15 were rejected, and two teachers who had been serving there for a number of years had their appointments terminated. UNFICYP noted that the Turkish Cypriot authorities also continued to vet all textbooks used for teaching in these schools. There were again no new developments regarding the establishment of a Turkish language school in Limassol in the southern part of the island.[45]

[44] See also International Covenant on Economic, Social and Cultural Rights, arts. 13 and 14, and Convention on the Rights of the Child, arts. 28 and 29.

[45] S/2014/461. See also the oral statements during the review of Cyprus by the Working Group on the Universal Periodic Review on 4 February 2014 (A/HRC/26/14), para. 69 (Turkey) and para. 107 (Cyprus).

H. Gender perspective

48. In its resolution 1325 (2000) on women, peace and security, the Security Council called upon all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia, (a) the special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction; (b) measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements; and (c) measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the Constitution, the electoral system, the police and the judiciary.

49. With regard to Cyprus, the Security Council reiterated in its resolutions 2135 (2014) and 2168 (2014) that the active participation of civil society groups, including women's groups, is essential to the political process and can contribute to making any future settlement sustainable. It recalled that women play an important role in peace processes, and welcomed all efforts to promote bicommunal contacts and events, including, inter alia, on the part of all United Nations bodies on the island.

50. During the review of Cyprus by the Working Group on the Universal Periodic Review on 4 February 2014, Canada recommended that the State under review take further concrete measures to promote equality between men and women by enabling full and meaningful participation by women in the decision-making levels of the formal peace process and the advancement of negotiations regarding the Cyprus issue. Australia recommended that it incorporate a gender perspective in negotiating and implementing any settlement accords.[46] The Government accepted these two recommendations in June 2014, noting that, "in the framework of the inter-communal talks, women have played an important role as members of the negotiating bicommunal structures and bodies, working at the same time outside the framework of the negotiations." The Government encouraged non-governmental organizations and civil society that deal with gender mainstreaming and the implementation of Security Council resolution 1325 (2000), and was taking their input into account. It added that the overall objective remained "the comprehensive settlement of the Cyprus problem in a manner that ensures the respect of fundamental freedoms and human rights for everyone, including gender equality, in law and in practice."[47]

51. In July 2014, the Human Rights Committee asked the Government of Cyprus to provide information on the way in which human rights concerns, particularly gender perspectives, were incorporated into the peace process, and on measures taken to strengthen dialogue with non-governmental and women's organizations to promote and encourage civil society and community-level participation in the peace process; and to fully involve women in all stages of the peace process, including in decision-making, in accordance with Security Council resolution 1325 (2000).[48]

52. On 16 December 2013, the Gender Advisory Team, a group of academics and civil society activists from both sides of the divide working on gender equality from a peace-building perspective, organized a seminar on the theme "Gender and the law: debating citizenship in Cyprus". The seminar targeted experts and practitioners in the fields of gender and legal reform in Cyprus, focusing on the links between gender and citizenship in situations of multiple and intersecting jurisdictions. Recognizing that forms of citizenship around the world are premised on highly gendered concepts of personhood and State, the

[46] A/HRC/26/14, paras. 114.34 and 114.35.

[47] A/HRC/26/14/Add.1, para. 28.

[48] CCPR/C/CYP/Q/4, paras. 2 and 5.

Gender Advisory Team endeavoured to sketch out the parameters for making the citizenship clauses of an eventual agreement more gender-sensitive.

IV. Conclusions

53. **During the period under review, there were some positive developments with regard to the promotion and protection of human rights in Cyprus, including progress in the identification and return of the remains of missing persons, an improved climate of interreligious communication and cooperation, and progress in conservation works of cultural heritage sites on the whole island.**

54. **The persisting division of the island still, however, hinders the full enjoyment, in mutual confidence by the whole population of Cyprus, of all human rights and fundamental freedoms. These include the right to life and the question of missing persons, the principle of non-discrimination, freedom of movement, property rights, freedom of religion and cultural rights, freedom of opinion and expression, and the right to education.**

55. **Various United Nations human rights mechanisms have voiced their concern at factors and difficulties impeding the implementation of international human rights standards on the whole island. In this context, United Nations treaty bodies, special procedures and the Working Group on the Universal Periodic Review addressed their questions and recommendations to Cyprus, Turkey and the de facto authorities in the northern part of the island.**

56. **As concluded in previous OHCHR reports on the question of human rights in Cyprus, it is hoped that the efforts to negotiate and achieve a comprehensive settlement of the protracted conflict in Cyprus will ultimately open avenues to improve the situation of human rights on the island. In the spirit of the Secretary-General's "Human Rights Up Front" initiative, addressing underlying human rights issues and causes should be an increasingly important part of peacekeeping efforts and also underpin the political dialogue aimed at achieving a comprehensive settlement of the Cyprus problem. Ensuring adequate women's participation and the consideration of gender-related issues in these discussions is vital.**

57. **Further visits by special procedures mandate holders are encouraged, including on cultural rights, minority issues, the human rights of internally displaced persons, the right to education, and enforced or involuntary disappearances. It is imperative that OHCHR and other relevant actors have access to the whole island, all pertinent authorities and persons affected.**

58. **Human rights do not have any borders; all stakeholders are thus obliged to uphold the fundamental freedoms and human rights of all people. It is vital that all human rights protection gaps and underlying human rights issues in situations of protracted conflict be addressed.**